

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1411 of 2019

=====

Dhanpat Rai S/o Late Kito Mohan Rai Vill.-Shihrol, P.O.-Balia, Kadwa, P.S.-
Kadwa, Distt.-Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through Principal Secretary, Education Dept.
Govt. of Bihar
2. The Director Primary Education, Govt. of Bihar, Patna
3. The District Magistrate Katihar
4. The District Education Officer Katihar
5. The District Programme Officer (Literacy) Kadwa
6. The Block Education Officer Kadwa, Distt.-Katihar
7. The Principal Upgraded Middle School, Shihrol, Block- Kadwa

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Shilpi Keshri
For the Respondent/s : Ms. Abhanjalli

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 13-10-2023

1. Heard learned counsel for the parties concerned.

2. The petitioner has filed the present writ application for quashing of office order, bearing Memo No. 44, dated 10.02.2018, passed by the District Programme Officer, holding that the petitioner was never appointed as Tola Sewak and honorarium is not permissible.

3. The Tola Sewak is appointed under the scheme on contract basis for one year. The post of Tola Sewak is not statutory and no recruitment rules are followed for their appointment.



4. A Co-ordinate Bench of this Court in a similar matter of Tola Sewak in CWJC No. 18107 of 2016 has held as follows:-

"The learned counsel for the respondents has raised a preliminary objection regarding maintainability of the present writ petition and has referred to a judgment, dated 17.08.2015, passed by a coordinate Bench of this Court in CWJC No.12390 of 2015 as well as to a judgment dated 02.02.2017 rendered by the learned Division Bench of this Court in L.P.A. No. 2185 of 2015 whereby and whereunder it has been held that since the selection or engagement or hiring of the Tola Sevak is not a permanent appointment under the State, which is required to be considered under Article 226 of the Constitution of India as well as since the post of Tola Sevak is under a scheme, the same does not create any statutory right in favour of the petitioner, hence writ petitions in such matters as that of Tola Sevaks are not maintainable. Having regard to the aforesaid judgments rendered by a coordinate Bench of this Court as also by the learned Division Bench of this Court, this Court is of the opinion that the present writ petition is not maintainable, hence the same is dismissed. However, liberty is granted to the petitioner to take recourse to such other remedies as are



available under the law."

5. The order passed by Co-ordinate Bench presided over by Hon'ble Single Judge in the aforesaid writ application has been affirmed by Division Bench holding that writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of this Court and the fact that Tola Sewak does not hold civil post as well as the same is not a statutory post, I also come to the conclusion the writ application is not maintainable.

7. This application is, according, dismissed.

(Anil Kumar Sinha, J)

ashwani/-

U			
---	--	--	--

